



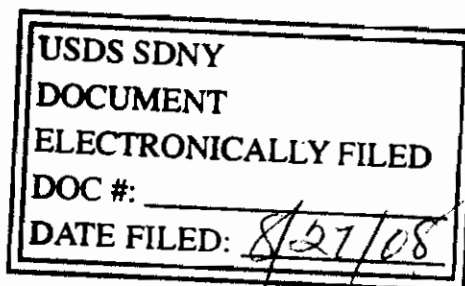
# MEMO ENDORSED

86 Chambers Street  
New York, New York 10007

August 26, 2008

BY FACSIMILE

Hon. James C. Francis  
United States Magistrate Judge  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl Street, Room 1960  
New York, NY 10007



Re: Sash v. Plummer, et al.,  
07 Civ. 5536 (SHS) (JCF)

Dear Judge Francis:

This Office represents the Probation Office of the Southern District of New York and United States Probation Officers Diane Plummer and Christopher Stanton in connection with the above-captioned matter brought by pro se plaintiff Eliot Sash. By letter dated July 30, 2008, I requested a thirty-day extension of time in which to respond to the complaint, and Your Honor granted that request by order dated August 4, 2008. I now write to request an additional three-week extension, from September 2, 2008, to September 23, 2008, to respond to the complaint. There are three reasons for this request. First, I recently completed a bench trial in Bankruptcy Court and the court has ordered post-trial briefing due September 2, the same day as the brief in this case. Second, when I requested the initial extension I overlooked the fact that I had previously scheduled a vacation for the week beginning September 1.

Third, defendants intend to file a dispositive motion to dismiss the complaint or, in the alternative, for summary judgment. Sash's primary allegation is that after he pleaded guilty to producing false identification documents without lawful authority, he was sentenced pursuant to a pre-sentence report ("PSR") that contained a typographical error regarding the proper sentence enhancement. See Complaint ¶¶ 19-25. He thus seeks hundreds of millions of dollars in damages from the probation officer who prepared his PSR and her supervisor. However, as Sash's own complaint admits, Complaint ¶ 24, the error "was corrected in open court." Moreover, Sash appealed the propriety of his sentence, and the Second Circuit held in a published opinion that the district court imposed an appropriate sentence enhancement. See United States v. Sash, 396 F.3d 515 (2d Cir. 2005). Sash should not be permitted to relitigate the propriety of his sentence in this action, and the defendants cannot be subjected to liability for any errors in the PSR when the Second Circuit has already held that Sash's sentence enhancement was appropriate.

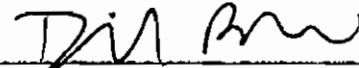
I have spoken with Mr. Sash and he consents to this request.

I thank the Court for its consideration of this request.

Respectfully submitted,

MICHAEL J. GARCIA  
United States Attorney for the  
Southern District of New York

By:

  
\_\_\_\_\_  
DAVID BOBER  
Assistant United States Attorney  
(212) 637-2718

cc: Eliot S. Sash  
c/o Mrs. J. Sash  
63 Bergenline Ave.  
Closter, NJ 07624

8/27/08  
Application granted.  
SO ORDERED.  
James C. Faunt IV  
\_\_\_\_\_  
USMJ